

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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KATHLEEN MINDLIN, BOBBIE W. HUDSON,  
RICHARD J. CARFORA, DON JOHNSON,  
TERRENCE JOHNSON, LINA GARRIQUES,  
DOMENICA BIZZOCO, HARRIET WHALEY,  
DOMENICK LEO, PHILIP LIBERTELLA,  
GARY LIBERTELLA, ALTON E. SCOTT,  
DETRED HAWTHORNE, and  
ANTHONY JARRETT,

03 CV 60003

Index No.:  
03 CV 60003  
(Hurley, J.)  
(Orenstein, M.J.)

Plaintiffs,

BURGER KING CORPORATION,  
TRACY DEFRANCO, individually and in her capacity as  
District Manager of Burger King Corporation, NORKA  
CASTELLO, individually and in her capacity as Assistant  
Manager of Burger King Corporation, and NORA VELEZ,  
Individually and in her capacity as Assistant Manager of  
Burger King Corporation,

-against-  
Defendants.

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**AFFIRMATION OF DAVID GORDON**

David Gordon, being duly sworn, deposes and says under penalty of  
perjury, that averments made herein are true and accurate:

1. I am the sole proprietor of David Gordon, Attorney & Counselor at  
Law, with offices at 300 Rabro Drive, Suite 138, Hauppauge, NY 11788. I,  
along with Mark Murray and Neil Frank, am counsel for the plaintiffs in this  
action, and I submit this affirmation in support of plaintiffs' application for  
attorneys' fees and herein.
2. I was first retained in this matter via a referral through the Suffolk

County Bar Association in August 2002. I sought out the assistance of Attorney Murray in August 2003, when he became co-counsel in this case. Together, we sought out the assistance of attorney Frank earlier this year.

3. Attorneys Murray, Frank, and I have kept contemporaneous records of the time we have spent in this litigation.

4. The detailed activities and totals are set forth in a schedule attached hereto as "Exhibit A." This schedule sets forth, by date, a description of the work performed and, by reference, the persons performing said work as well as the total time allotted to the work performed. The records reflect hours billed up to the present, and they have been incorporated into accounts under Murray & Hopkins. The records from which this schedule was derived are available for inspection, should the court so desire.

5. A full summary of the proceedings in this case is set forth in the Memorandum of Law submitted in support of this application.

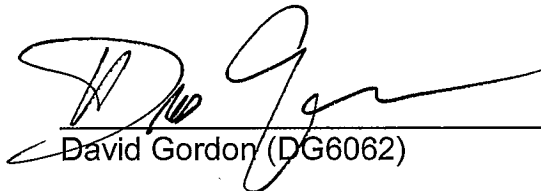
6. Regarding my qualifications as counsel in this matter, I respectfully refer the Court to my Declaration submitted with our first application for fees dated January 27, 2006, and add the following:

7. I have successfully litigated over 35 matrimonial and family court cases in Suffolk County since opening my solo practice in 2001. I have also represented clients in multi-state commercial litigation.

8. I ask that attorneys' fees be awarded based on the rates currently charged.

9. My fees in this matter have been submitted to Mark Murray's office, consistent and contemporaneous with Mr. Murray's and my standard billing procedures. I have reviewed the billing statements, and they accurately reflect the time that I have invested in this case during the period commencing in the early fall of 2003 up to the present.

Dated: Hauppauge, New York  
March 22, 2006



David Gordon (DG6062)

## Exhibit A

**Burger King – Combined Billing**

**David Gordon, Esq. – All Billing @ \$400.00 per hour**

<u>Date</u>	<u>Service</u>	<u>Hours</u>	<u>Fee</u>
10-27-2005	Meet with MM and MW re Oppo to SJ Mtn	4.00	\$1,600.00
11-7-2005	Lunch with MM, R. Briton [BKC]	2.00	\$400.00
11-8-2005	Legal Research – Oppo to Mtn SJ	3.00	\$1,200.00
11-9-2005	Meet with MW re Oppo SJ Mtn	2.50	\$1,000.00
11-21-2005	Meet with MM to revise and finalize Oppo to Mtn for SJ	4.00	\$1,600.00
11-29-2005	Telephone Call to MM re fee application Review of revised settlement agreements For Whaley and Mindlin	1.20	\$480.00
12-5-2005	Legal Research – Fee Application	2.00	\$800.00
12-9-2005	Meeting with MM and MW	4.00	\$1,600.00
12-16-2005	Finalize fee motion	3.00	\$1,200.00

**TOTAL HOURS: 25.70**

**TOTAL FEE: \$10,280.00**

**Burger King – Billing for Plaintiff Kathleen Mindlin**

**David Gordon, Esq. – All Billing @ \$400.00 per hour**

<u>Date</u>	<u>Service</u>	<u>Hours</u>	<u>Fee</u>
12-15-2004	Prep Mindlin's response to BKC's First document production request	3.42	\$1,368.00
12-17-2004	Appt. @ office with Mindlin to review And revise execution of response to BKC's request for production of docs.	4.12	\$1,648.00
12-21-2004	Prep Mindlin's response to N. Castello [BKC] Request for production of documents	2.08	\$832.00
1-4-2005	Meet with Mindlin, review/execute response To N. Castello [BKC]'s request for Production of docs	3.18	\$1,272.00
1-5-2005	Prep Mindlin's response to N. Castello's first set of Interrogatories	2.89	\$1,156.00
1-6-2005	Execution/review Mindlin's response to N. Castello's first set of Interrogatories	2.72	\$1,088.00
1-10-2005	Prep Mindlin's response to BKC's		

	First set of Interrogatories	3.25
	\$1,300.00	
1-12-2005	Meet with Mindlin, review/execute Response to BKC's first set of Interr.	3.67
	\$1,468.00	
1-14-2005	Prep of Mindlin's amended response to BKC's first set of Interrogatories	2.15
	\$860.00	
1-17-2005	Review/execution of Mindlin's Amended response to BKC's first Set of Interrogatories	2.18
	\$872.00	
2-11-2005	call with MTH re BKC	1.00
	\$400.00	
5-3-2005	Finalizing schedule for Mindlin EBT	0.25
	\$100.00	
5-9-2005	EBT for Mindlin completed	7.75
	\$3,100.00	
6-10-2005	Telephone call with Mindlin	0.75
	\$300.00	

**Burger King – Billing for Plaintiff Kathleen Mindlin**

**David Gordon, Esq. – All Billing @ \$400.00 per hour**

<u>Date</u>	<u>Service</u>	<u>Hours</u>
<u>Fee</u>		
11-1-2005	Review Email from R. Briton [BKC]	0.10
	\$40.00	
11-10-2005	Review email from Briton re Mtn	0.10
	\$40.00	

**TOTAL HOURS: 39.11**

**TOTAL FEE: \$15,644.00**

**Burger King – Billing for Plaintiff Domenick Leo**

**David Gordon, Esq. – All Billing @ \$400.00 per hour**

<u>Date</u>	<u>Service</u>	<u>Hours</u>
11-9-2004	Prep/review Leo's response to BKC's first request for production Of documents	3.23
	\$1,292.00	
11-12-2004	Prep Leo's response to BKC's First set of Interrogatories	4.03
	\$1,612.00	



11-15-2004	Prep Leo's response to N. Castello's First request for Production Of documents \$668.00	1.67
11-18-2004	Execute/finalize Leo's response to BKC's first request for Production of docs \$832.00	2.08
11-19-2004	Meet with Leo, review/execute response To BKC's first set of Interrogatories \$1,968.00	4.92
11-23-2004	Review/execute Leo's response to N. Castello's first set of Interrogatories \$1,100.00	2.75
12-15-2004 \$600.00	Meeting with Leo and MM	1.50
12-6-2005 \$400.00	Meeting with Leo and MM	1.00

**TOTAL HOURS: 21.18**

**TOTAL FEE: \$8,472.00**

**Burger King – Billing for Plaintiff Domenica C. Bizzoco**

**David Gordon, Esq. – All Billing @ \$400.00 per hour**

<u>Date</u>	<u>Service</u>	<u>Hours</u>
<u>Fee</u>		

11-15-2004	Prep of response to BKC's First set of Interrogatories	2.73
	\$1,092.00	
12-1-2004	Review/execute and meeting with Bizzoco re response to BKC's First set of Interrogatories	3.13
	\$1,252.00	
12-23-2004	Prep/review Bizzoco's response to BKC's first request for production Of documents	5.17
	\$2,068.00	
1-5-2005	Prep/review Bizzoco's response to N. Castello's first set of Interrogatories	1.90
	\$760.00	
1-10-2005	Finalize/execute response to N. Castello's First request for production of Documents/Meeting with Bizzoco	3.42
	\$1,368.00	
1-10-2005	Finalize/execute Bizzoco's response to BKC's First request for production of Docs	1.42
	\$568.00	
1-21-2005	Prep/execute Bizzoco's amended response to BKC's first request for Production of Docs	3.25
	\$1,300.00	
1-24-2005	Prep/execute Bizzoco's amended response to N. Castello's first request for production Of Docs	3.97
	\$1,588.00	
2-14-2005	Meeting with Bizzoco – EBT prep	1.00
	\$400.00	
4-23-2005	Telephone Call with MM	0.75
	\$300.00	

**Burger King – Billing for Plaintiff Domenica C. Bizzoco**

**David Gordon, Esq. – All Billing @ \$400.00 per hour**

<b><u>Date</u></b>	<b><u>Service</u></b>	<b><u>Hours</u></b>
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**Fee**

**TOTAL HOURS: 26.74**

**TOTAL FEE: \$10,696.00**

**Burger King – Billing for Plaintiff Richard J. Carfora**

**David Gordon, Esq. – All Billing @ \$400.00 per hour**

<u>Date</u>	<u>Service</u>	<u>Hours</u>
11-12-2004	Prep of Carfora's response to BKC's First request for production of docs	2.42
	\$968.00	
11-16-2004	Prep of Carfora's response to BKC's First set of interrogatories	3.62
	\$1,448.00	
11-18-2004	Review/execute and finalize Carfora's Response to BKC's first set of Interrogatories	2.17
	\$868.00	
11-19-2004	Finalize/execute Carfora's response to BKC's first request for production of Documents	2.08
	\$832.00	
1-4-2005	Prep Carfora's response to N. Castello's First set of Interrogatories	2.78
	\$1,112.00	
1-7-2005	Execute/finalize Carfora's response to N. Castello's first set of Interrogatories	1.32
	\$528.00	
1-13-2005	Prep of Carfora's amended response to N. Castello's first set of Interrogatories	1.75
	\$700.00	
1-21-2005	Finalize/execute Carfora's amended response To N. Castello's first set of Interr's	1.92
	\$768.00	

3-28-2005	Prep of Carfora's amended response to BKC's first set of Interrogatories	2.63
	\$1,052.00	
3-30-2005	Finalize/execute Carfora's amended Response to BKC's first set of Interr's	2.33
	\$932.00	

**TOTAL HOURS: 23.02**

**TOTAL FEE: \$9,208.00**

**Burger King – Billing for Plaintiff Bobbie W. Hudson**

**David Gordon, Esq. – All Billing @ \$400.00 per hour**

<u>Date</u>	<u>Service</u>	<u>Hours</u>
11-15-2004	Prep and review Hudson's response To BKC's first set of Interrogatories	4.67
	\$1,868.00	
11-17-2004	Prep and review Hudson's response To BKC's first request for production Of Documents	4.83
	\$1,932.00	
11-19-2004	Meet with Hudson and MM, finalize /execute response to BKC's first request for production of Docs	3.92
	\$1,598.00	
11-22-2004	Meet with Hudson and MM, finalize /execute response to BKC's first set of Interrogatories	5.17
	\$2,068.00	
1-3-2005	Prep/review Hudson's response to N. Castello's first request for Production of Documents	3.58
	\$1,432.00	

1-6-2005	Prep/review Hudson's response to N. Castello's first set of Interrogatories	2.18
	\$872.00	
1-11-2005	Meet with Hudson, finalize/execute Response to N. Castello's first set Of Interrogatories	3.17
	\$1,268.00	
1-12-2005	Execute/finalize Hudson's response to N. Castello's first set of Interrogatories	1.92
	\$768.00	
1-17-2005	Prep/review Hudson's amended response To BKC's first set of Interrogatories	3.15
	\$1,260.00	
1-24-2005	Execute/meeting with Hudson to finalize Response to BKC's first set of Interr's	2.33
	\$932.00	
1-31-2005	Telephone call with Hudson	0.75
	\$300.00	

**Burger King – Billing for Plaintiff Bobbie W. Hudson**

**David Gordon, Esq. – All Billing @ \$400.00 per hour**

<u>Date</u>	<u>Service</u>	<u>Hours</u>
3-25-2005	Office Conf. with MM re outstanding EBT's and schedule for sit-down and Settlement agreement	1.00
	\$400.00	

**TOTAL HOURS: 36.67**

**TOTAL FEE: \$14,668.00**

**Burger King – Billing for Plaintiff Harriet L. Whaley**

**David Gordon, Esq. – All Billing @ \$400.00 per hour**

<b>Date</b>	<b>Service</b>	<b>Hours</b>
<b><u>Fee</u></b>		
11-11-2004	Prep of Whaley's response to BKC's first set of Interrogatories	2.92
	\$1,168.00	
11-16-2004	Prep of Whaley's response to BKC's first request for Production Of Documents	2.83
	\$1,132.00	

11-18-2004	Meet with Whaley, review/execute Response to BKC's first set of Interrogatories \$1,868.00	4.67
11-18-2004	Meet with Whaley, review/execute Response to BKC's first request for Production of Documents \$1,768.00	4.42
12-17-2004	Prep Whaley's response to N. Castello's First request for Production of Docs \$932.00	2.33
12-20-2004	Execute/review Whaley's response to N. Castello's request for production Of Documents \$908.00	2.27
1-3-2005	Prep Whaley's response to N. Castello's First set of Interrogatories \$840.00	2.10
1-11-2005	Review/execute Whaley's response to N. Castello's first set of Interrogatories \$840.00	2.10

**TOTAL HOURS: 23.64**

**TOTAL FEE: \$9,456.00**

**Burger King – Billing for Plaintiff Don Johnson**

**David Gordon, Esq. – All Billing @ \$400.00 per hour**

<u>Date</u>	<u>Service</u>	<u>Hours</u>
<u>Fee</u>		



12-14-2004	Prep of Johnson's response to BKC's first request for Production of Documents \$1,488.00	3.72
12-16-2004	Review/execute Johnson's response To BKC's first request for Production of Documents \$1,040.00	2.60
12-20-2004	Prep Johnson's response to N. Castello's First request for Production of Documents \$1,232.00	3.08
12-21-2004	Execute/review Johnson's response To N. Castello's first request for Production of Documents \$668.00	1.67
1-4-2005	Prep Johnson's response to N. Castello's First set of Interrogatories \$880.00	2.20
1-5-2005	Prep Johnson's response to BKC's First set of Interrogatories \$1,032.00	2.58
1-7-2005	Execute/review Johnson's response to BKC's first set of Interrogatories \$964.00	2.41
1-10-2005	Prep/execute Johnson's amended Response to BKC's first request for Production of Documents \$1,488.00	3.72
1-11-2005	Prep/execute Johnson's amended Response to N. Castello's first request For Production of Documents \$968.00	2.42
1-14-2005	Prep/execute Johnson's amended Response to BKC's first set of Interrogatories \$1,052.00	2.63

**Burger King – Billing for Plaintiff Don Johnson**

**David Gordon, Esq. – All Billing @ \$400.00 per hour**

<u>Date</u>	<u>Service</u>	<u>Hours</u>
1-18-2005	Prep/execute Johnson's amended Response to N. Castello's first set Of Interrogatories	2.92
	\$1,168.00	
2-1-2005	Telephone call with Johnson	0.50
\$200.00		
4-16-2005	Telephone call with Johnson	0.50
\$200.00		

**TOTAL HOURS: 30.95**

**TOTAL FEE: \$12,380.00**

**Burger King – Billing for Plaintiff Lina Garriques**

**David Gordon, Esq. – All Billing @ \$400.00 per hour**

<u>Date</u>	<u>Service</u>	<u>Hours</u>
<u>Fee</u>		
12-21-2004	Prep of Garriques' response to BKC's first set of Interrogatories \$1,400.00	3.50
12-27-2004	Prep of Garriques' response to BKC's first request for Production of Documents \$1,732.00	4.33
12-30-2004	Meet with Garriques, finalize/ Execute response to BKC's first Set of Interrogatories \$1,268.00	3.17
12-31-2004 \$400.00	Meet with Garriques at office	1.00
12-31-2004	Finalize/execute Garriques' response To BKC's first request for Production of Documents \$792.00	1.98
1-5-2005	Prep Garriques' response to N. Castello's first set Of Interrogatories \$1,088.00	2.72
1-7-2005	Meet with Garriques, finalize/execute Response to N. Castello's first set Of Interrogatories \$1,232.00	3.08

1-15-2005	Meet with Garriques, prep amended Response to BKC's first set of Interrogatories \$1,220.00	3.05
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**TOTAL HOURS: 22.83**

**TOTAL FEE: \$9,132.00**

**Exhibit B**

**Copy of January 27, 2006 filing for first motion for fees, already exchanged.**